

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DEVENDRA SHUKLA,

Plaintiff,

-against-

SAT PRAKASH SHARMA, individually  
and as Director of VISHVA SEVA ASHRAM  
of NEW YORK, GEETA SHARMA, individually  
and as Director of VISHVA SEVA ASHRAM of  
NEW YORK, d/b/a SARVA DEV MANDIR,

Defendants.

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**AMON, Chief United States District Judge**

NOT FOR PUBLICATION  
**MEMORANDUM & ORDER**  
07-CV-2972 (CBA) (CLP)

**FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ NOV 01 2013 ★

**BROOKLYN OFFICE**

On August 15, 2013, this Court issued an Order to Show Cause why Matthew Pek, Esq., counsel for defendants, should not be held in contempt for failure to appear at a court-scheduled oral argument on August 13, 2013. (D.E. # 242.) The Order directed that Mr. Pek show cause by August 22, 2013 by written affirmation. Mr. Pek filed an affirmation on September 11, 2013, in which he stated that he had not been made aware of the oral argument, in part because his PACER account had been disabled due to his failure to pay PACER fees. Mr. Pek represented that he would “never again” miss oral argument but also stated that he found “the Court’s wish to hold [him] in contempt” to be “silly” in light of his “unabashed zeal for live debate.” (See D.E. # 243.) The Court rescheduled argument for October 24, 2013. In an abundance of caution, the Court also mailed a copy of its scheduling order to Mr. Pek.

Mr. Pek failed to appear for oral argument on October 24, 2013. The Court made unsuccessful efforts to contact Mr. Pek by telephone. Plaintiff, plaintiff’s counsel, and defendants all appeared on time and were prepared to proceed. Defendants represented to the Court that Mr. Pek had assured them that he would attend the argument. To date, Mr. Pek has

not provided this Court with an explanation for his failure to appear.

Federal Rule of Civil Procedure 16 provides that if a party or its attorney “fails to appear at a scheduling or other pretrial conference,” a court may impose sanctions “as are just.” Fed. R. Civ. P. 16(f); see Supe v. Canon USA, No. 11-CV-3827 ADS AKT, 2012 WL 1898936 at \*1 (E.D.N.Y. May 24, 2012) (“Courts frequently impose sanctions for an attorney’s failure to appear for a scheduled conference.”); Dan River, Inc v. Crown Crafts, Inc., No. 98-CIV. 3178 LMM AJP, 1999 WL 287327, at \*2 (S.D.N.Y. May 7, 1999) (“Pursuant to the ‘as are just’ provision of Rule 16(f), and the Court’s inherent authority, courts often impose sanctions payable to the Clerk of Court.”).

The Court finds the conduct of defendants’ counsel to be inexcusable. For the second time, Mr. Pek has wasted the time and flouted the authority of this Court. Accordingly, Mr. Pek is ordered to pay sanctions in the amount of \$500.00, payable to the Clerk of Court, to be deposited in the Eastern District Civil Litigation Fund, which provides funding for pro bono cases in this District. Mr. Pek shall file proof of this payment by November 29, 2013.

SO ORDERED.

Dated: October 31, 2013  
Brooklyn, N.Y.

s/Carol Bagley Amon  
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Carol Bagley Amon  
Chief United States District Judge